FAO (HMA) No.335 of 2006 &CMP 451/2007.

12.6.2007. Present: Mr. C.N. Singh, Advocate, for the appellant alongwith petitioner Rajnish Mehta in person.

Mr. R.K. Sharma, Advocate, for respondent along with respondent Shivani Mehta in person.

This appeal has been preferred by the husband against the order of the learned District Judge, Kangra at Dharamshala in a petition instituted under Section 13 (a) (i) of the Hindu Marriage Act, 1955 for dissolution of marriage by mutual consent. The learned District Judge dismissed the petition on the ground that the wife had withdrawn her consent before passing of the final decree. The husband is in appeal.

During the pendency of the appeal, CMP No. 451 of 2007 has been filed jointly by the husband and the wife agreeing for dissolution of marriage by mutual consent. In other words, the wife has agreed that she would be willing to live apart from the husband in case the divorce is granted by mutual consent.

I have talked to the parties individually and find that the application has been moved by them of their own free will. CMP No. 451/2007 which has been filed on behalf of the husband and wife jointly is accepted. The marriage between the parties is dissolved by mutual consent and a decree is passed accordingly. The parties will remain bound by the conditions as stated in CMP No. 451/2007 Ext. C-1which they unequivocally accept. A sum of Rs. 13,000/- has already been paid out of the agreed amount of Rs.1,25,000/-as permanent alimony.Today a sum of Rs.12,000/- in

cash and a cheque in the sum of Rs. one lacs payable on State Bank of India, Dharamshala being cheque No. 395783 has been handed over to the wife. It is also agreed between the parties that so far as the children Pragya Mehta and Anshuman Mehta are concerned, they would live with the father along with grand parents as specified in clause (d) of Ext. C-1 The mother will have the right of visitation to the children. She will be allowed access to them at least ones in a week or more. For this purpose, the mother (respondent) will give advance intimation to the appellant. Meeting will be in the presence of the appellant at a place to be mutually agreed upon between the parties.

The appeal is allowed and disposed of in terms of the compromise Ext. C-1 which shall form part of the decree dissolving the marriage of the parties by mutual consent.

12th June, 2007. **(Dev Darshan Sud),**
(cm) **Judge.**